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IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1995

JOHN C. DORMAN and
WILMA L. DORMAN - PETITIONER

vs.

PAULINE JONES and
ANN EL WESTBROOK
JOHN DOE(S) 1-50 - RESPONDENT

PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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July 31, 1995

70 pp

QUESTIONS PRESENTED

Should debtors be penalized for their attorneys' errors, trickery fraud, negligence, misrepresentations and coercion, intimidation and other misconduct?

Should debtors be punished for the grossly clearly erroneous proceedings of the lower bankruptcy court's rulings, abuse of discretion, intimidation, and abuse of power?

Should debtors rights be violated under the Eighth Amendment of the United States Constitution by being unjustly cruelly punished by the unconstitutional "taking" of their family farm, estate and assets and the illegal taking of their powers as directors of a nondebtor Oklahoma Corporation, which was separate and distinct from the farm?

Does the bankruptcy court, officers of the court, U. S. Trustee, trustee and attorneys representing the trustee, the lender - the First National Bank, Hooker, lessors' attorney, bankruptcy judges abuse their power by punishing the debtors by liquidating them due to their political, religious and moral beliefs?

Should ex parte orders acquired by prohibited ex parte contacts (Rule 5001) with bankruptcy judges be vacated?

Do the bankruptcy court's judges, or trustees have the right to discriminate against debtors that are representing themselves?

Were the debtors' constitutional rights and due process of law violated by the bankruptcy judges' actions ordering petitioners to hire an attorney licensed to practice law in the state of Oklahoma, and the permanent injunction by which Judge Covey of the bankruptcy court enjoined the petitioners from filing any documents in either the bankruptcy court, the district court or the 10th Circuit court of appeals?

What are the implications when the Federal District court uses a "lottery" rotation and the petitioners' federal court cases were all transferred to Judge Thompson? Petitioners questioned his impartiality and prejudice due to his orders which concurred/sanctioned Judge Lindsey's orders of the lower bankruptcy court when Judge Lindsey admitted to the Dormans that he might have made a "mistake"?

What constitutes cruel and unusual punishment has not been defined by the Constitution.

Debtors contend that the most cruel and unusual punishment which can be inflicted

upon man, most especially a family farmer is to "take" his land from him, his rightful God given inheritance, and to deprive both husband and wife and their children and grandchildren of their family farm. Deprive him of his livelihood, his hard earned property, waste the assets and proceeds of the estate.

If the liquidation plan and all of this, emotional, mental, physical and spiritual anguish, grief and misery - sickness of heart, soul and body was to punish, us Dormans, and to make us "pay dearly"; wouldn't this violate the debtors/Dormans constitutional rights by the prohibited excessive fines of the administrative and attorney fees? And wouldn't the inflicted punishment of liquidation of a farmer/rancher's farm and ranch be the most cruel and unusual punishment that a farmer/rancher could be subjected to? That a farm family could be subjected to? That a farm wife, sons and grandsons could be subjected to?

Even convicted criminals - murderers - are not made to forfeit all their property and they do not have to pay excessive fees. Criminals get more justice and have more rights than debtors do. Do debtors have to be behind bars to be in debtors' prison and to be in involuntary servitude in violation of the Thirteenth Amendment?

When Judge shows favoritism and threatens debtors with economic harm; could this

under some circumstances result in extortion, per U. S. v. Miller (1965, CA4 Md) 340 F2d 421?

Was the Fourth Amendment (Unreasonable (unauthorized) searches and seizures) violated when trustee's attorney, John Hughey, changed locks on property of nondebtor corporation, entered, searched and seized all items, including exempt household and personal items of debtors, and property belonging to debtors' nondebtors' sons?

Who has mandated that the bankruptcy court's function or authority is to punish debtors for their alleged fraud and dishonesty by "taking" their property and violating the family farmers' constitutional rights under the Fifth and Eighth Amendments?

Were petitioners' constitutional rights violated by the bankruptcy court losing documents which were sent: "certified mail", "return receipt requested" and "restricted delivery" to chief Judge Richard Bohanan?

As the 10th Circuit court of appeals said that it could not determine any of our grievances involving our property, under FRCP 9 (b), 60 (b) (1) (2) (3) (4) (5) (6), made applicable by Bankruptcy Rule 9024, and FREv. 103 (2) and 401.

Is it the function and purpose of the highest court in the land to investigate the lower courts and to right the wrong;

to see that justice is upheld in the judicial system and to see that people's Constitutional rights are not violated and that the lower courts do not abuse or overreach their authority and to put an end to improper, illegal corrupt practices in its lower courts?

Was the petitioners civil rights violated by the discrimination and the segregation of them in the bankruptcy court?

Congress' policy in straight bankruptcy is that executory contracts should be rejected or deemed rejected if not affirmatively assumed is in sharp contrast to practice in Chapter XI where, in accordance with 11 USC 713(1) and Bankruptcy Rule 11-53, court must give permission for rejection of executory contracts. Re 1430 Equities, Inc. (1978, BC NY 4 BCD 806

Did the Bankruptcy Court err as a matter of law in interpreting 11 U.S.C. 365 (d) (4) to mean that both a motion and an order extending time to accept or reject unexpired leases must be entered within the 60 day time frame following the entry of the order for relief or the unexpired leases are deemed rejected?

Did the Bankruptcy Court err as a matter of law in finding that the doctrines of waiver and estoppel have no application as a matter of law to obviate the operational provisions of 11 U.S.C. 365 (d) (4) with respect to the automatic rejection of unexpired leases?

Did the bankruptcy court err as a matter of law in entering an order compelling the immediate surrender of ground subject to unexpired leases which have been deemed rejected by operation of law?

If this Court reaffirms the bankruptcy court's order as a matter of law stating that if executory contracts or leases are not reaffirmed or an extension filed within 60 days - did the bankruptcy court err in allowing the trustee to assume all the other executory contracts and leases which by law, due to default were deemed rejected?

Did bankruptcy court err in improper court proceedings and in covering up fact of unsigned or lost order? (Judge Lindsey warned UBK's associate not to use the Order as a sword; what was going on? Why all the secrets? What did Judge Lindsey mean when he admitted to the Dormans that he might have made a mistake?)

There are Orders missing in the court records and Judge Lindsey signed another order on February 8, 1993, ordering extension to February 8, 1993; (The dates are not typing errors.) Did he err in vacating it and in ordering the surrender of leased ground only two days before debtors' hearing on their confirmation plan; by striking the bar date for ballots on the very day of bar date and striking the hearing two days before confirmation; when the debtors disclosure

statement was approved and the two objections to the debtors' Disclosure Statement and attached Reorganization Plan were compromised by a verbal court ordered "agreed to" signed order?

Upon review of the records in the lower courts and most especially in the bankruptcy court through February, 1993. Should grossly clearly erroneous orders and proceedings in the lower courts deny petitioners due process and deny them relief of their grievances and deny them justice and allow the unconstitutional "taking" and "distribution of their property" by declaring their appeal as being moot when the bankruptcy judges, trustee and attorneys all knew and conspired by collusion to rush and sell the land and property to third parties; knowing full well that if debtor appeals - they can demand the dismissal of appeals to the higher courts by declaring the appeal as being moot?

Petitioners are requesting the Supreme Court to review petitioners' bankruptcy case No. 92-16654-L, and vacate, reverse clearly erroneous orders and restore their property - their family farm, sons' property and Lonetree, Inc.'s property and whatever else is lawful, just, proper, right and fair.

Would the Supreme Court take into consideration that although petitioners know that there has been a clear case of abuse of the judicial process, that they are not attorneys and have been unable to

retain counsel? And only in limited circumstances, such as in petitioners case should the Court take extraordinary step of setting aside confirmed judicial sale of bankruptcy? The highest Court in the land is not limited and has the power to entertain an independent action to relieve a party from a judgment, order or proceeding, or to grant relief to a party or to set aside a judgment for fraud upon the court. Therefore petitioners appeal to the Court, to move on behalf of the Dormans in Christ Jesus's most holy and precious name?

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DEEMED REJECTION PRODUCT OF COLLUSION
The following footnote of In Re Bonton Restaurant and Pastry Shop, Inc., at 52 B.R. 850

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PLAN OF LIQUIDATION A FORM OF PUNISHMENT
Drew Kershen, professor of law at Oklahoma University, agrees with the following quoted opinion. "I believe the plan of liquidation was submitted by the

Trustee as a form of punishment of the Dormans.

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TRUSTEE RENDERS REHABILITATION IMPOSSIBLE
Cowans Bankruptcy Law and Practice, Sixth Edition, St. Paul: West Publishing Company, 1994, Vol. 1 Page 182.

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CHAPTER 11: A DEATH PENALTY FOR DEBTOR
Fenning, Hon. Lisa Hill, "The Future of Chapter 11: One View From the Bench," In Annual Survey of Bankruptcy Law, 1993-1994 Edition, William L. Norton, Jr., edl, New York: Clark Boardman Callaghan, 1994, Page 113; Hon. Edith H. Jones "Chapter 11: A Death Penalty For Debtor And Creditor Interests," 77 Cornell L. Rev. 1088 (1992); Brenda Hacker Osborne, "Attorneys' Fees in Chapter 11 Reorganizations: A Case For Modified Procedures," 69 Indiana L. J. 581 (1994).

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GREAT CAUTION SHOULD BE EXERCISED BY COURT BEFORE DECIDING THERE IS NO HOPE
Re Lake Ridge Associates 163 B.R. 284 (E.D. Vir. 1994)

STATUTES

FRCP 9 (b), 60 (b) (1) (2) (3) (4) (5) (6), made applicable by Bankruptcy Rule 9024, and FREv. 103 (2) and 401.

United States Code

Title 11 Chapter 11 Reorganization
365 (d) (4)
362 Automatic Stay

UNITED STATES CONSTITUTION

First Amendment - freedoms, religion and right to petition the government.

Fourth Amendment - freedom from unreasonable search and seizure. (Trustee's attorney seized property of "out of state", nondebtor Lonetree, Inc. - changed locks, entered, searched, inventoried and seized all property, including exempt property of debtors and property that did not belong to debtors. He embezzled or allowed others to "take" personal items and sold the property and all contents excluding four items which petitioners caused not to be sold due to them finding out that he intended to either sell or trade these items. This was done without authority or court order - extreme overreaching by trustee.)

Fifth Amendment - no rights be taken away without due process of law, and that no property be taken by the government by eminent domain without just compensation. (Judges abuse of power, discretion, intimidation, biased favoritism, partiality, and permanent injunction. The judicial system should not allow the lower

courts to "take" and "distribute" property when its procedures and orders have been grossly clearly erroneous as to shock the public or the court. And, the lower courts should not be able to use their selling of the property to third parties as their excuse for not seeing that justice is done; most especially when petitioners have demanded stays, restraining orders, filing of adversary suits alleging fraud, violation of their Constitutional rights, trial by jury and that major lender had breached the contract and had violated automatic stay and had committed fraud and usury. DEBTORS HAVE NOT ALWAYS RECEIVED CERTIFICATE OF SERVICE.

Sixth Amendment - In all criminal prosecutions, the right to speedy trial, impartial jury, knowledge of charges, confrontation of adverse witnesses, and the compulsory attendance of witnesses in court.

Seventh Amendment - in all civil lawsuits, the right to a jury trial "when the value in controversy shall exceed $20." (Petitioners requested jury trials because all controversary exceeded $20; bankruptcy, district and appellant courts all denied jury trials, plus oral arguments.)

Eighth Amendment - and Article II prohibition against excessive bail, excessive fines and cruel and unusual punishment.

OTHERS

28 USC 2403 (a) May be applicable

28 USC 1651 (a) Petitioners believe that the writ will aid the Court's appellate jurisdiction, that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers and that adequate relief cannot be obtained in any other form or from any other court.

NO._____

IN THE SUPREME COURT
OF THE
UNITED STATES OF AMERICA

October term, 1995

John C. Dorman, and
Wilma L. Dorman, Petitioners

vs.

Pauline Jones, and
Ann El Westbrook, Respondents

PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

Petitioners, John C. Dorman and Wilma L. Dorman, respectfully requests that a writ of certiorari be issued to review the judgment and opinion of the Unites States Court of Appeals for the Tenth Circuit wherein none of petitioners grievances related to the bankruptcy proceedings involving their property could be determined by the Tenth Circuit Court of Appeals. And the lower bankruptcy court has departed from the

accepted and usual course of judicial proceedings, and the Federal District Court and Tenth Court of appeals have sanctioned such a departure, as to call for an exercise of this Court's power of review, and supervision.

OPINIONS BELOW

The Court of Appeal's opinion in this matter was filed on March 31, 1995. A timely Petition for Rehearing was filed on April 13, 1995. The Court of Appeal's denial of the Petition for Rehearing was issued on May 2, 1995, and an amended denial of Petition for Rehearing was reissued on May 4, 1995; set forth in Appendix A through D. District Court's orders dismissing the stay and denying request for rehearing, consolidation of appeals and denying appellants right to amend/correct their documents is set forth in appendix E through G. The bankruptcy court's vacated erroneous order is set forth in Appendix H.

JURISDICTION

Petitioners are not attorneys at law and do not know the law or statutes which invoke jurisdiction of this court. The preparer of this petition, Wilma Dorman is an American Indian of the Cherokee tribe and invokes jurisdiction of this court by Article III of the United States Constitution which reads, "...The utmost good faith shall always be observed towards Indians; their lands and property shall never be taken from them without their consent; and in their property rights, and liberty; they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity

shall, from time to time, be made for preventing wrongs being done to them, and for preserving peace and friendship with them."

Petitioners are also invoking the jurisdiction of this court under 28 USC 1651 (a) as petitioners believe that the writ will aid the Court's appellate jurisdiction, that there are present exceptional circumstances warranting the exercise of the Court's discretionary powers and that adequate relief cannot be obtained in any other form or from any other court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendments 1, 4, 5, 6, 7, 8 and 9 to the United States Constitution is set forth in Appendix I.

Articles I, II and III of the United States Constitution is set forth in Appendix J.

Statutes of fraud 60 (b)
FRCP 9 (b), 60 (b) (1) (2) (3) (4) (5) (6), made applicable by Bankruptcy Rule 9024, and FREv. 103 (2) and 401.

STATEMENT OF THE CASE

John C. Dorman dba Dorman Farms and wife, Wilma L. Dorman, under the misrepresentation of their former

attorney, filed a Chapter 11 Bankruptcy case for relief to reorganize their family farm and to work out a good faith plan to pay their creditors. An order for relief was entered the following Tuesday, due to Monday being a legal holiday.

John C. Dorman and Wilma Dorman, a new business venture, leased certain nonresidential real property from Jones and Westbrook. This lease did not belong to John Dorman, individual and his wife, Wilma or John C. Dorman dba Dorman Farms. This was a new lease separate and apart from any other farm that John leased or that he owned. This lease made Wilma Dorman a farmer - a person entitled to crops, deficiency payments from the ASCS office, eligible for loans etc as well as under the number of the new business venture at the ASCS office. On all leases made before this one, John was the lessee. Wilma's name was on this one - not because she was John's wife, but because they had formed a new business venture and Wilma used her stocks and certificates of deposits for her share of expenses. And this new business venture did not file bankruptcy. Therefore, petitioners contend that the lease should never have been surrendered to lessors; that if the lease was to be surrendered; it should have been surrendered to the new business venture. And the new business venture would have used the income from the lease to help John Dorman dba Dorman Farms to reorganize the family farm so he could pay his creditors.

John C. Dorman and Wilma Dorman were also directors in a closed Oklahoma Corporation, Lonetree, Inc., which was formed in September, 1991, which held 3,000 shares of stock, with John and Wilma each owning 250 shares, each. Some stock belonged to the sons, while other shares were to be earned by employees working for the corporation. Within this corporation was Dorman Crop Insurance which wrote federal crop insurance for farmers. The corporation was in the process of leasing rental property in New Mexico which the trustee's attorney searched, seized and sold, without notice or a court hearing or without filing an adversary proceeding to determine if the corporation was an "alter ego". It was not an "alter ego" corporation. Overreaching of the trustee's authority and violation of everyone's constitutional rights under the 5th, including the corporation, Lonetree, Inc.; as a corporation is an individual with its own rights. (The trustee's attorney charged the estate for his airplane fare, his meals and motel rooms and charged attorney fees when he was supposedly doing the work of the trustee - he was really on vacation and charged it to the estate. The charges which the trustee had to finish paying as administrative fees was his attorney's trip, attorney's fees and for excessive brokerage fees to sell the new New Mexico property and the exempt items of the debtors and the personal property of debtors' two sons.

In the process of reorganization, the debtors in possession, while in the course of operating the farm and continuing to do business mortgaged to Lonetree, Inc., all the unencumbered minerals in exchange for a loan of $20,000.00, which the corporation could borrow, but the debtors could not. (Proper documents were prepared by Lonetree, Inc. and the Debtors.)

No one would loan the debtors over $3,600 for their minerals and debtors had to have operating funds, plus Charles Underwood, bankruptcy attorney of the law firm of UBK had to have a $15,000.00 retainer before proceeding with debtors' bankruptcy. This was the only way that debtors found to come up with any funds. The trustee did not honor the loan with Lonetree, Inc. and ignored the mortgage and sold all the minerals, and sold the property in New Mexico when venue or jurisdiction was not proper in Oklahoma for property in New Mexico. LONETREE, INC. SHOULD HAVE BEEN DISMISSED BECAUSE IT'S PRINCIPAL ASSET WAS IN NEW MEXICO.

Guarantee Acceptance Corp. v Fidelity Mortg. Investors (1996, CA10 Okla) 544 F2d 449.) ...where sole principal asset was in California, but corporate headquarters and offices were in Oklahoma; hence, venue in Oklahoma was improper; option of retention, dismissal, or transfer is within discretion of judge, which discretion is to be exercised within broad parameters of

interest of justice; order of dismissal did not constitute abuse of discretion, given duration of various bankruptcy proceedings in which parties had been involved and debtor's conflicting allegation of record as to its principal place of business.

John was also a fiduciary trustee in his and his sons 320 acres which is referred to as the 1/2 Section, or John's life estate. He and his sons had already begun a partnership and called it Dorman and Sons. John had even spoken to FmHa about the boys borrowing through a partnership and beginning two irrigation circles on the two quarters. John had three grain bins constructed on the land. This land and bins were free and clear of liens. The trustee sold this 320 acres and all minerals as a life estate, without any provision for insurance of the bins, and without any provisions for caring for the premises or the protection of the land. Debtors hope that because John's life estate in the land and minerals were sold that their sons will receive the land and minerals back upon the death of their dad. But, what shape will it be in? Should the trustee and his attorney get by with taking John's power as a fiduciary trustee? When the life estate was a declared trust and John was the declared trustee? And for selling the life estate which dissolved the Dorman and Sons partnership?

None of these entities or persons did not file a bankruptcy petition and

should not have been brought into the discovery or consolidated into the liquidation plan. Throughout the proceedings of the bankruptcy court, the debtors are accused of not giving full disclosure. The debtors laid everything on the table for Charles Underwood, expecting him to protect their interests in a professional and legal and lawful way. Once the debtors filed for reorganization; they were at his and the court's mercy - and there was none. If you can't trust your attorney; who can you trust? He sold us out! (The above mentioned entities were consolidated into the liquidation plan without notice or hearing.)

Although Congressman Dole in his legislative review states that family farmers were not to be liquidated and that 11 U.S.C. 365 (d) (4) does not apply to rehabilitation cases; but to large shopping mall - the Dormans were liquidated and Judge Lindsey orders the trustee to surrender the leased land when the Dorman Partnership had it leased and the Dorman Partnership did not file bankruptcy; plus Congressman Dole states that 365 (d) (4) does not apply to rehabilitation cases.

The lower bankruptcy judge Lindsey stated that there was no precedent set in the Tenth Circuit Court of Appeals for 365 (d) (4), so he made his ruling by citing the wrong rule for farmers' necessary for rehabilitation leases; he used the rule for exemptions. The judge

or any of the attorneys could find a law in the 10th Circuit Court of Appeals by which to make a ruling; so they used the wrong law, stating that there is no precedent set in the 10th Circuit Court of Appeals on 11 USC 365 (d) (4);

Respondent/lessors received a prohibited ex parte order from Judge Lindsey, shortening their hearing to five days; only two days before the debtors hearing for the confirmation of their reorganization plan. The Judge was not impartial. He was biased and showed favoritism to the lessors' attorney. Else the attorney had the judge over a barrel because the judge did not like admitting that he had neglected to sign an order extending time; and that the court had been proceeding for two months without proper authority? In the February 3, 1993 transcript, Judge Lindsey calls his court an embarrassment and a comedy of errors. Some type of hanky panky went on here!

Contacts and relationships exist between the bankruptcy courts and the bar which are problems that the new law seeks to solve. According to Rule 5001, the system should not only operate fairly but it must appear to operate fairly. And the bankruptcy court for the Western District of Oklahoma does not. In fact, it looks and acts like a bankruptcy ring; a system set up so the attorneys trustees and judges can take all that a farmer has and proceed to sell him out.

There is no relief in bankruptcy! Just ask any of the farmers that sought relief through the bankruptcy courts. Farmers believe that Congress fully intends for the bankruptcy courts to sell them out - that this is another way that the government is "taking" and "distributing" private property. And according to reports from other farmers all across the state and country; the other bankruptcy courts are just as corrupt.

This is why so many farmers are losing their farms and being thrown out in the streets. We don't need more of these good, hard working, producers on welfare or killing themselves. America needs her farmers on their farms producing food to feed the world and to support themselves and to help pay taxes. Like the song says, "Whatcha gonna do when the well runs dry? Honey?"

Judge Lindsey vacated his own clearly erroneous order and within this same order, he ordered the lease surrendered to the landlords. He ruled that 365 (d) (4), by law, stated that farm leases had to be reaffirmed or a request for extension timely filed, within 60 days, else the lease and land had to be surrendered to the landlords.

Two months after the request for the extension is filed, trustee's attorney informs lessors attorney that the extension may be one day late. (Petitioners allege collusion on the part

of John Hughey - he wanted lessors' attorney to help liquidate the estate.) Surprise! Surprise! There was never an order filed extending the time? Or did the collusion and conspiracy extend to the bankruptcy records? Numbers in the bankruptcy file have been marked through, changed and petitioners have been hindered from filing documents in the bankruptcy court. And Judge Lindsey signs another Order on February 8, 1993 which extends the time to zero days until February 8, 1993.

Other odd coincidences are: Debtors Discovery is approved on February 3 and the hearing for confirmation of their Reorganization Plan is scheduled for February 27, 1993; Judge's order appointing Jack Cornelius as trustee February 4, 1993 and lessors' attorney is granted ex parte orders on February 16, 1993. Judge Lindsey then proceeds to vacate his zero day order, and orders the surrender of the farm lease. And very conveniently this was all done only after the trustee is appointed??????????? There is also the lost order, or an order was never signed by the judge. Clearly grossly erroneous to say the least.

Petitioners contend that the respondent's arguments are invalid due to the fact that John Dorman dba Dorman Farms did not lease the subject lease from Pauline Jones and Ann Ell Westbrook. John C. Dorman and Wilma L. Dorman, a new business venture, leased the subject farm. The lessors entered into lease

agreements with other tenants when the lease belonged to the new business venture; not to the trustee or the bankruptcy estate.

If Judge Lindsey's interpretation of 365 (d) (4) is correct; then, by law, all executory contracts and leases - not just this one lease should have been deemed rejected and the estate or the newly appointed trustee should not have been allowed to overreach his authority and claim the property from these untimely reaffirmed contracts and leases. The Dormans as debtors and under their powers as directors and fiduciary trustees of nondebtor contracts did verbally reaffirm all their contracts and continued to make payments as the contracts and leases required. Yet, the trustee, even after six months, continued to "take" assets from the Dormans.

Petitioners have filed their grievance with the Tenth Circuit court of appeals, seeking a writ of error and supervisory control of the lower bankruptcy court. The Tenth Circuit Court did not afford petitioners relief. Therefore, petitioners are demanding the highest court in the land to see that justice is done. Petitioners are requesting the Supreme Court to review petitioners' bankruptcy case No. 92-16654-L, and vacate, reverse and restore their property - their family farm.

REASONS FOR GRANTING THE WRIT

Certiorari should be granted for the following reasons: This Petition presents issues unresolved by this Court. And the lower bankruptcy court has departed from the accepted and usual course of judicial proceedings, and the Federal District Court and Tenth Court of appeal have sanctioned such a departure, as to call for an exercise of this Court's power of supervision.

365 (d) (4), Legislative History by Congressman Mr. Robert Dole

This subtitle contains three major substantive provision which are intended to remedy serious problems caused by shopping centers and their solvent tenants by the administration of the bankruptcy code. The first problem which this bill would remedy is the long-term vacancy or partial operation of space by a bankrupt tenant.

Subsection (d) places time limits on assumption and rejection. In a liquidation case, the trustee must assume within 60 days (or within an additional 60 days, if the court, for cause, extends the time). If not, the contract or lease is deemed rejected. In a rehabilitation case, the time limit is not fixed in the bill. However, if the other party to the contract or lease requests the court to fix a time, the court may specify a time within which the trustee (or debtor in possession) must act. This provision will prevent parties in contractual or lease relationships with the debtor from

being left in doubt concerning their status vis-a vis the estate. (H. Rept. No. 95-505 to accompany H.R. 8200, 95th Cong., 1st sess. (1977) pp. 347-350)

The following footnote of In Re Bonton Restaurant and Pastry Shop, Inc., at 52 B.R. 850, reads:
"Assumption of a valuable lease is as much in the interest of creditors as it is in the interest of the debtor. The court notes that a deemed rejection may be a product of collusion, or the debtor in possessions' malfeasance, negligence, or mistake, which may improperly penalize creditors for the debtor's failure to act. It would appear therefore, that the circumstances surrounding the deemed rejection that is contested by a party in interest be taken into account by the court."

On April 13, 1993, the debtors' law firm filed an "Application for Leave to Withdraw as Attorneys of Record", and cites one of the reasons for withdrawal "the potential claim of the bankruptcy estate against applicants." The attorneys alleged that the trustee should have had a claim against them. It is documented in later pleadings that the attorney for the debtors had allowed the time limit for rejecting or assuming the farm leases to lapse and that the court had therefore rejected the leases, causing the court to determine the debtors as bankrupt, without notice and Judge Lindsey denied the debtors an evidentiary hearing.

Drew Kershen, professor of law at Oklahoma University, agrees with the following quoted opinion. "I believe the plan of liquidation was submitted by the Trustee as a form of punishment of the Dormans for the fraud and dishonesty they "allegedly" had committed early in the case. In his disclosure statement, the Trustee states that the Debtors had committed fraud that they had mismanaged their estate and had been dishonest in their dealings with their creditors. The tone of the Disclosure Statement seems to indicate that something should happen to the Dormans for engaging in this behavior."

Drew Kershen, professor of law continues, "I also think that is how the court responded and felt..." He continues with his professional legal opinion, "... what you say shows what happens when bankruptcy debtors make everyone else involved in the bankruptcy bitter and angry. The Dormans made enemies of potential allies and paid dearly for doing so."

If punishment of the Debtors for the alleged fraud and dishonesty is what was needed, the law provides for such. Under 11 U.S.C. 1106 (a)(3) and 18 U.S.C. 3057, the Trustee is charged with the duty of investigating the debtors, and reporting all violations he finds. There is no investigatory report in the Dorman file.

The fees of everyone involved had gotten out of hand. A later filing by the trustee shows a charge of $22.50 for "taking deposit to bank", when on previous occasions the bank deposit had been mailed, at a charge of $.29. See "Application of Trustee for Interim Compensation" filed January 6, 1994. Additionally, the accountant employed by the Trustee shows $35.00 per hour for her secretary, billed as a "paraprofessional"; and an item billed as "prepared standardized forms for use each month" by G. Wayne Gurrey, Manager, at $50.00 per hour. (The Trustee's office already had a monthly report form available for debtors.) Yet all of these charges were paid in full.

"I take this as further evidence that this is what happens when you make an enemy of the Trustee. If the Trustee had been a "friend" of the Dormans, the Trustee may well have scrutinized these bills much more carefully", concludes the Oklahoma University law professor, Drew Kershen.

The trustee's liquidation plan and final Report reveals the violation of debtors Constitutional rights under Article II which states that all fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty of property, but by the judgment of his peers, or the law of the land... And, in the just preservation of rights and property, it is understood and declared,

that no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements, bona fide, and without fraud previously formed.

What constitutes cruel and unusual punishment has not been defined by the Constitution. Debtors contend that the most cruel and unusual punishment which can be inflicted upon man, most especially a family farmer, is to "take" his land from him, his rightful God given inheritance. Deprive him of his livelihood, his hard earned property, waste the assets and proceeds of the estate. Sell and distribute his farm ground, grass lands, minerals, to his competitors even though debtor-in-possession filed a good faith petition to reorganize. Lie to him, cheat him, trick him because you are in a fiduciary position - by law, by ethics, he should be able to trust and rely on what he is told. Cause him stress, fear, anguish, anger, confusion, despair - make him dysfunctional. Put him on the chopping block, cut his head off and them make him pay, pay and pay some more.

Truck his cattle to a feed lot in another county and sell them, without attorney objecting; in fact attorney warns debtors that trustee will get his own cowboys and jostle the cattle if they don't round them up. Lie to him that they will be back in a couple of months. Then obtain an emergency ex parte order

to sell the cattle on the very day that they are being sold; family pets and all. Road the machinery and equipment, with combines and trucks across the state line into Texas, two days before wheat harvest and hire custom cutters to harvest the wheat. Sell everything you can get your hands on. If you can't sell it - give it away, trade it or keep it. The trustee's attorney said, "We might get away with it."

Be sure and give the controlling, adverse creditor every thing it demands, including excessive attorneys' fees. And overlook the protection of debtors against harassment and frustration of his rehabilitation by prejudicial dismembership and disposition of the estate and his assets because necessary motions requesting court ordered injunctive relief went unheeded and ignored.

Inflict cruel and unusual punishment and sanction them by excessive fines in the form of excessive administrative fees above $235,000.00, excessive attorney fees, by causing them to be in default thereby losing long term (seven year) farm and grass leases. Sell and distributing all owned farm and grass lands, minerals, cattle, personal and household items as well as property of children and grandchildren. Sell keepsakes, grandma's rocker and homemade quilts, grandpa's homemade cedar chest and inherited family china; which the family used for Christmas and

Thanksgiving dinners, Christmas presents and other personal items and property of nondebtor grown sons and grandchildren.

All creditors were paid in full; plus their attorneys were paid from the estate and the controlling creditor received $100,000.00 over the $446,000.00 claim, plus offset two $50,000.00 Certificates of Deposits of $100,000.00, and whatever else the trustee let them keep.

If all the above was done to punish the Dormans by making them "pay dearly" as Mr. Kershen has stated; wouldn't this violate the debtors/Dormans rights by the tormenting punishment of excessive fees? And wouldn't the punishment of liquidating a farmer/rancher's farm and ranch be the most cruel and unusual punishment that a farmer/rancher could be subjected to? That a farm family could be subjected to? A farm wife? Sons that have sacrificed for the farm and ranch due to promises of partnerships and being heirs to the family farm and ranch? Grandchildren?

Judge Covey's ruling of petitioners' objection to the excessive, duplicative, unnecessary and illegal splitting of attorneys' fees was that he did not have the time - that it would take a certified accountant to scrutinize the attorneys motions for compensation. Thus all of the debtors objections of legitimate questions of fact or law went unheeded and was ignored by the bankruptcy judge.

And petitioners have not been afforded any relief in either the District or appellant courts.

The officers of the courts have obstructed justice by either not filing documents which were mailed in a timely manner; else the court "lost?" them on purpose or instructed the bankruptcy clerks to mail documents back to debtors, without filing them.

The court separated the debtors from all the other debtors by holding their hearings in a separate courtroom; segregating them all to themselves, threatening to incarcerate them, to have the U. S. Marshall to handcuff Mrs. Dorman because she was trying to represent herself and her husband in a court of law while she was ridiculed, mocked, laughed at and intimidated. At one time, she was the only one at her table and including the trustee there were seventeen attorneys present, plus she brought her son with her to stay in the back of the courtroom so he could make a phone call if she were arrested as the transcript she had received in the mail had threatened her with.

Judges in bankruptcy have one main duty: to prevent injustice. In the bankruptcy court in Oklahoma the judges do not prevent injustice, for there is far too much injustice going on and too many people are being sucked up (suckered in) by that huge black leech worm/serpent called the bankruptcy court. Plus the

judges trust the Trustee far too much - he's like a little god, or as one attorney described him, "A fly in the ointment." Maybe they are all flies; flies corrupt.

Daniel J. Cowan, a noted bankruptcy authority writes: ...In general, a bankruptcy court is more inclined to listen to the trustee than to the debtor. A trustee with a power to sell can render any plan that the debtor might like to propose impossible or highly improbable. If a debtor intends to rehabilitate a manufacturing business, a sale by the trustee of key machinery puts the rehabilitation out of the power of the debtor to proceed. If the debtor has a plan ready to file, a protest could be made to the court against the sale, but often the proposed sale will occur so early that the debtor will not be able to fomulate a plan. Not all trustees are above such actions as will render it impossible for the debtor to formulate a plan and thus leave it for the trustee to formulate a plan or to serve as trustee in the event of a conversion to Chapter 7. (Cowans Bankruptcy Law and Practice, Sixth Edition, St. Paul: West Publishing Company, 1994, Vol. 1 Page 182.

This is what happened with the ex parte order granting the trustee to sell the debtors' cow herd before trustee's plan of liquidation was confirmed. Plus in his order allowing the ex parte sale of the cattle, Judge Lindsey writes "a trustee has already been appointed,

indicating a strong uncertainty in the Debtors' ability to reorganize." There is not any necessary relationship between a trustee being appointed and the ability of the estate to carry out the provision of a reorganization plan. But this sentiment would be echoed by a Federal Court Judge in one of the adversary proceedings. (Judge Thompson) The Judges seem to believe that any time a debtor-in-possession is replaced by a Trustee there are too may difficulties in the case to permit reorganization. OR IT SEEMS TO MEAN THAT WHEN A TRUSTEE IS APPOINTED A SALE IS ASSURED!

It should be noted that in all motions filed by the trustee; he also submitted an order for the judge to sign. The judges do not write their own orders; therefore an adverse party can include whatever he wants to in an order which is signed by a judge. (If this is not improper; fraud on the court, abuse of power - illegal; what is?)

The Judge should have used his power under 105 when debtors' discovery statement had been approved and all objections had been resolved and the Reorganization Confirmation hearing was ONLY TWO DAYS AWAY. Rather than prevent injustice, Judge Lindsey showed his bias against the debtors and his favoritism to the lessors by granting them ex parte orders, shortening the time for their hearing, allowing them to violate debtors automatic stay and shortening the time to object to 5 days; then granting their

hearing two days before debtors' hearing on their confirmation plan. At the hearing, he orders the surrender of debtors' long term lease contract. At the same hearing, the court, the trustee and all the attorneys agree that without the farm lease the debtors could not cash flow and should be liquidated. All of this was done without a notice or a hearing. It is all in the transcripts which are attached as evidence to the briefs in the 10th Circuit appellant court.

Family farmers are excluded from being transferred to a Chapter 7 which is the chapter for liquidation. Since Congress did not intend for family farmers to be liquidated without their consent; they should not be allowed to be liquidated in a Chapter 11 Reorganization without their consent. And a trustee should not be allowed to liquidate them simply by calling his liquidation plan a Reorganization Liquidation Plan. This is why everyone involved wanted a trustee appointed. He can promise everyone payment in full, excessive attorney fees and use the law and the courts for illegal gain.

It is of considerable importance that in a liquidation, the fees paid to the trustee are a percentage of the entire estate, rather than just a percentage of those funds which pass through the trustee's hands during the pendency of the plan in a reorganization. The trustee therefore stands to make a

far greater fee in a liquidation than a reorganization. And Jack Cornelius proposed a plan of liquidation rather than a plan of reorganization.

The stronger duties of a U. S. Trustee under 1109 of the Code says that any party in interest may raise and be heard on any issue in the case; the stronger duties of the U. S. Trustee should be to closely scrutinize any plan of liquidation filed by a trustee, because of the possibility of overreaching (as a knee-jerk reaction to claims of fraud or mismanagement) and/or greed on the part of the trustee. The same trustee, Jack Cornelius has sold out many other farmers and has proposed a plan of liquidation in another, larger farmer bankruptcy just-this past autumn. Again Cornelius stands to earn far greater trustee's fees from the liquidation than he would have from a planned payout.

Petitioners believe that greed and illegal gain was the underlying motive and the false allegations, intimidation, threats of incarceration, threats of economic loss, fraudulent use of the law and the court - even extortion was used against the debtors to "control" them as the trustee's attorney assured the lessors' and bank's attorneys.

Although Debtors paid their former attorneys over $25,000.00, they have been without representation and have been unable to find an attorney that can or

will represent them. Therefore, debtors had to begin representing themselves when they did not know the first thing about filing an objection or motion or even where to go to begin. They began investigating their case, did not roll over and play dead - and they have been defending themselves in the lower courts. The court records and transcripts have caused them to come to the conclusion that there was collusion, conspiracy, chain conspiracy and civil conspiracy committed in their case.

A lack of good faith on the part of the trustee in proposing a plan of liquidation is shown by the fact that the Trustee's plan proposes to pay all of the creditors of the Dormans in full, and that is exactly what happened. The liquidation certainly lined the pockets of the Trustee, several attorneys, and other vendors they used.

Many commentators seem to believe that trustee and attorney fees are the single most important reasons that the outcome of many Chapter 11 cases is liquidation rather than reorganization. See, Fenning, Hon. Lisa Hill, "The Future of Chapter 11: One View From the Bench," In Annual Survey of Bankruptcy Law, 1993-1994 Edition, William L. Norton, Jr., edl, New York: Clark Boardman Callaghan, 1994, Page 113; Hon. Edith H. Jones "Chapter 11: A Death Penalty For Debtor And Creditor Interests," 77 Cornell L. Rev. 1088 (1992); Brenda Hacker Osborne, "Attorneys' Fees in Chapter 11

Reorganizations: A Case For Modified Procedures," 69 Indiana L. J. 581 (1994).

Chapter 11: A Death Penalty For Debtors? UBK's associate D. Benham Kirk, Jr. scared, confounded, and confused the Dormans as debtors in possession after filing their petition for relief by stating, "You're Dead!"

The Trustee's Report states that $235,218.76 in administrative claims were paid; $126,565.71 of this was attorney and accountant fees, the balance trustee's fees; but the actual attorney fees paid in the case is much higher. The total paid to Cliff Gooding, attorney for Case Credit, to Mike Bickford, attorney for FNBH, and to Steven Elliott, attorney for the Lessors, came out of the proceeds of the sale of their assets and are not reflected in the Trustee's Final Report. (Excessive fines and cruel and unusual punishment which is prohibited under Article II of the Constitution.)

Also the entire bankruptcy court for the Western District of Oklahoma was well aware that UBK as a law firm was shaky and that one of their principal partners was having a drug problem. Judge TeSelle knew of the alcohol problem and if the court had such knowledge, the judge owed a duty to the Debtors to provide them with some measure of protection from their own counsel.

Even without prior knowledge by the court, the law firm's poor handling of

the case and it's own admission that a possible claim of malpractice against UBK had arisen less than 5 months into the case, should have made both judges pause, at least as to whether or not the debtors' attorneys would be allowed a fee.

UBK did not engage in any pre-bankruptcy planning with the Dormans. Underwood also assured the Dormans that he would reaffirm their farm leases and under an Chapter 11 there would be no trustee and that if there was any danger of losing the farm leases that he would transfer them to a Chapter 12.

UBK lost the farm leases with the help of the trustee's attorney and the lessors' attorney and filed an agreed to order with the bank to appoint Jack Cornelius as a trustee under duress, intimidation and the trickry and lie that "Jack" had promised not to sell the Dormans out and would only be the trustee for two months and that he would help to get their reorganization plan confirmed.

And Underwood never transferred the Dormans to a Chapter 12, although he stated to Jack Cornelius that if they were going to transfer the Dormans to a Chapter 12, they needed to do so right away. They didn't; and Jack Cornelius breached his contract and filed a liquidation plan and allowed Underwood's attorney fees and Hughey did not file a malpractice suit against UBK. (Judges

should have controlled all excessive attorney fees.)

Judge Covey temporarily enjoined the Dormans from filing any further pleadings in any of their on-going cases, unless represented by a licensed attorney. One week later, he made the injunction permanent. This violates the Constitution of the United States under the Due Process Clause. Neither does 105 of the bankruptcy Code provide a bankruptcy judge with such power; under that section a judge is only to "carry out the provisions of this title."

His allowing the creditors and attorneys to file pleadings and argue their excessive attorney fee cases, while preventing the debtors from doing the same is patently unjust. The few pleading the Dormans did file were scrutinized by him prior to filing and this situation caused much delay and frustration to the Dormans, abrogating their right to access to the court.

The Dormans had valid objections to attorney fees and significant questions of fact or law; yet their arguments were ignored and went unheeded. (Judge Covey even allowed the trustee's attorney to try to get the Dormans to reimburse the bankruptcy estate for what should have been exempt property - property in which there were no creditors or liens. And property which not only belonged to them, but property which belonged to their

sons. This property was sold to pay trustee's attorneys their final fees.)

Judge Covey's actions regarding the injunction against the Dormans, which allowed them to file only such pleadings in the case as he deemed, "correct", was clear abuse of discretion and violation of the United States Constitution. It also showed judicial bias as he ignored the pleadings which he allowed the Dormans to file, even when they presented significant questions of fact or law to the court.

The fact that the trustee got the "emergency" sale of the cattle ordered prior to confirmation of any plan crippled the ability of the debtors to fund any plan. The fact that every attorney got paid every penny he or she asked for, even when such charges clearly were not warranted and did not benefit the estate, the propriety of paying attorney fees to those who commit malpractice.

All the lack of good faith by everyone involved in the case, contributed to the downfall of the Dormans and the loss of their farm.

Was justice done in the Dorman case? NO! First the entire point of bankruptcy under Chapters 11, 12 and 13 is reorganization, not liquidation. In Re Lake Ridge Associates 163 B.R. 284 (E.D. Vir. 1994) the judge has aptly stated

"...great caution should be exercised by a court in deciding there is no hope."

Second, in a case such as this where no creditors' committee exists, and there is only one major creditor, that creditor should not be allowed to control the course of the proceedings. And the major creditor should not be allowed to continually violate the debtor' automatic stay. FNB, Hooker, also violated the debtors' automatic stay by piercing the corporate veil of Lonetree, Inc.

This court should grant certiorari here to explicitly rule that 11 USC 365 (d) (4) either excludes or includes rehabilitation cases in bankruptcy. Whether it pertains to large shopping malls and its many and varied leases and excludes the family farmer who has filed a Chapter 11 or 12 to get a plan confirmed.

Judge Lindsey in bankruptcy court used a case cite on exemptions, stating there was no precedent pertaining to 11 USC 365 (d) (4) in the 10th Circuit Court of Appeals.

There are too many businesses that believe they have reaffirmed their leases or contracts with their landlords when their attorneys have neglected to reaffirm in the court within the 60 day time limit.

And there are conflicts in the circuit courts where in the 90's there

are too many courts deeming debtors in default where in the 70's and 80's under Rule 11-53 or 11 USCS 757(2) unless there was an affirmative rejection the contract remained in effect; else court must give permission for rejection of executory contract.

The Court must ascertain whether improper practices such as trafficking of votes were used to influence change with lessors as well as with other large creditors when creditors had either voted to confirm debtors plan, else they were in default. Debtors contend that creditors had either agreed with debtors reorganization plan else knew that the trustee was going to file a liquidation plan and pay them all in full; which is what he did.

A farmer should not lose a long term farm lease simply because he files a petition in bankruptcy for relief so he can continue to farm and pay his creditors. A farmer should not be in default on his farm lease due to his attorney's negligent acts or misconduct. A farmer should not be punished for the error of attorneys, judges, bankruptcy courts or trustees. A farmer should not lose his lease when he pays a cash lease for a portion of it and when he has verbally assured his landlord that he has filed a petition for relief so he can continue to farm the leased land.

The Supreme Court should rule on whether the bankruptcy courts and all

involved has the power and/or authority to punish debtors by "taking" their property. It should also rule on whether petitioners have been fined excessive punishment fines and have been unjustly inflicted by cruel and unusual punishment according to Article II and the Eighth Amendment to the Constitution.

The Supreme Court should determine if petitioners were denied due process of law and whether judge Covey abused his discretion and committed miscarriage of justice and whether debtors and their property, their estate, sons' property and Lonetree, Inc.'s have been held in bondage by the restraining orders and the permanent injunction.

Upon review of the petitioners record in the lower bankruptcy court, the Supreme Court should rule as to whether clearly erroneous orders and proceedings in the lower courts can deny petitioners due process and deny them relief of their grievances and deny them justice by declaring their appeal as being moot because their property has been sold by illegal and corrupt actions of their enemies in the bankruptcy court. And failure to reverse judgment and vacate subsequent orders would result in miscarriage of justice.

The fraudulent abuse and corruption of the judicial system, the laws, and the courts is prohibited and The Supreme Court should demand a full blown

evidentiary hearing and clean up all this corruption, and illegal use/abuse of the law to confiscate property and the illegal use of funds for trafficking, kickbacks, bribery and extortion.

Bankruptcy, especially, Chapter 11 Reorganization is a most profitable way to confiscate - "take" property, lands, cash collateral for personal gain, without anyone to answer to - the cover up is easy and in Oklahoma, farmers are having to learn to represent themselves because they cannot find an attorney that has the backbone to buck the corrupt system. They all want on the gravy train. Who or what attorney or trustee wouldn't be tempted? These excessive administrative, trustee and attorney fees are high stakes!

Once again, Oklahoma has the reputation of having the most corrupt justice and judicial system in the nation. And our judges and attorneys are doing it to themselves. They are being told by all the pro se filings and no one is listening. Farmers are independent, they do their own work, their own repairs, etc; and up till now, they have left the lawyering up to the lawyers. You can't find an attorney that will represent you - they hold their hand out for a huge retainer, then don't do anything to earn it. Because they are unethical, dishonest, deceitful, and tricky; they think you are. And farmers don't trust judges because they are attorneys and they do not trust the bar

association because they are attorneys. They are all "lawyers helping lawyers".

If there are any just judges and attorneys; they sure aren't protecting the reputation of their profession; a little leaven or one bad apple corrupts the whole barrel or judicial system. They are being allowed to use the courts, the judicial system and the law to transfer the wealth of the rural people to corrupt individuals and are covering up their acts with false accusations, unauthorized agreed to orders, feigned objections and improper court proceedings.

After all; WHO CARES? IS THERE ONE JUST JUDGE? GOD IS LOOKING FOR SOMEONE WHO CARES! A MOUNTAIN MOVER!

CONCLUSION

For the reasons set forth above, a writ of certiorari should issue to review the judgments and opinions of the Court of Appeal, the U. S. District Court for The Western District of Oklahoma and the clearly erroneous orders of the U. S. Bankruptcy Court For The Western District of Oklahoma.

DATED: July 27, 1995.
SUBMITTED IN BOOKLET FORM August 21, 1995

Respectfully submitted in Jesus Christ's name.

John C. Dorman
Wilma L. Dorman

John C. Dorman
Wilma L. Dorman
Route 1, Box 89
Forgan, Oklahoma 73938
405-259-6488

Petitioners are representing themselves.

APPENDICURES

DEBTORS NOTE PERTAINING TO ORDERS

Debtors had only begun representing themselves on May 11, 1993, and did not know of the compromise until much later and were not serviced; plus the trustee bought the lessors' vote on the liquidation plan by the judge signing a prejudgment order which granted property to first the trustee; then to the lessors, which was in dispute in a scheduled adversary suit.

The Order which properly mandated that the property in dispute belonged to the trustee and not to the Dormans was not signed or filed until the later part of June; even then, Judge Covey signed the Summary Judgment Order without a hearing and did not realize that he had signed a summary judgment order. In fact, he signed 14 Orders in one day and placed a temporary injunction on debtors and five days later made it permenant.

All these Orders were appealed and requested the District Court to consolidate all of the Dorman appeals and the Dormans various documents and briefs in the District court TO SAVE TIME AND FINANCES. (Most especially since all of the Dorman appeals were being directed to one specific judge in the District Court - to Judge Thompson.)

The Dormans also requested an extension of time and the right to amend/correct

G

their appeals and briefs and a rehearing - their requests were denied. This denial Order was appealed to the 10th Circuit and a request was made to the 10th to consolidate all of the Dorman appeals.

Therefore, the Dormans have filed their motions, briefs and briefs in support as though all their appeals were consolidated and amended. This is why the Dormans have listed all their grievances of the lower courts in the briefs in the 10th Circuit and now to the Supreme Court of the United States.

The appellant court made a request as to whether the orders were final or not - the debtors did not know therefore they requested the BK court to let them know if an order was final. Judge Lindsey became offended. See his letter to Judge Thompson when he recused himself; after he told the Dormans that he might have made a mistake.

The Dormans should have had the perfect right to amend their appeals and briefs, most especially since the only thing about the law that they knew was to appeal and they had to learn how to do this and they were having to file objections, documents in three seperate courts from the trustee's two attorneys, the bank's attorney and the lessors' attorney; while under a permenant injunction and hostility from all three courts.

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

In Re: John C. Dorman and Wilma L. Dorman Debtors	)	No. 94-6261
Debtors	)	D. C. NO. 93-936-T
	)	(W. D. Okla)
John C. Dorman and Wilma L. Dorman	)	
Appellants	)	
v.	)	
Pauline Jones and Ann Ell Westbrook	)	
Appellees	)	

ORDER AND JUDGMENT*

Before TACHA, LOGAN, AND KELLY, Circuit Judges

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34 (a); 10th Cir. R. 34.1.9. The case is therefore ordered submitted without oral argument.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of the court's

A.

General Order filed November 29, 1993.
151 F.R.D. 470.

This appeal is from an order of the district court dismissing appellants appeal from an order of the United States Bankruptcy Court for the Western District of Oklahoma. The District Court held that the appeal was rendered moot because appellees Jones and Westbrook entered into a settlement agreement with the appellants' court-appointed trustee in bankruptcy. Appellees have also entered into an agreement to lease the subject real property. The district court held that these agreements resolved all the issues underlying the parties' respective positions concerning the surrender order. On this appeal, appellants cite a multitude of grievances related to the bankruptcy proceedings involving their property. None of these grievances, however, can be determined by this court. We agree with the district court that this controversy is moot and the appeal is dismissed for substantially the reasons given by the district court.

The mandate shall issue forthwith.

Entered for the Court
Deanell Reece Tacha
Circuit Judge

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

In Re: John C. Dorman Wilma L. Dorman Debtors	)	No. 94-6261 (D. C. CIV - 93-936-T)
John C. Dorman and Wilma L. Dorman Appellants	)	
v.	)	
Pauline Jones and Ann Ell Westbrook Appellees	)	

ORDER
Entered May 2, 1995

Before TACHA, BARRETT, and KELLY, Circuit Judges.

This matter comes on for consideration of appellants' petition for rehearing filed in the captioned case.

Upon consideration whereof, the petition for rehearing is denied by the panel that rendered the decision.

Entered for the Court

Patrick Fisher, Clerk
By Opal A. Carter
Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

In Re: John C. Dorman Wilma L. Dorman Debtors	)	No. 94-6261 (D.C. CIV- 93-936-T
John C. Dorman and Wilma L. Dorman Appellants	)	
v.	)	
Pauline Jones and Ann Ell Westbrook Appellees	)	

ORDER
Filed May 4, 1995

Before TACHA, LOGAN, and KELLY, Cirucit Judges.

The court, in order to correct a clerical error in the issuance of this order on May 2, 1995, thereby reissues it in order to reflect the proper panel of Tacha, Logan and Kelly instead of Tacha, Barrett, and Kelly.

The order reissued nunc pro tunc and is to read as follows:

This matter comes on for consideration of appellants' petition for rehearing filed in the captioned case.

Upon consideration whereof, the petition for rehearing is denied by the panel that rendered the decision.

Entered for the Court

Patrick Fisher, Clerk
By Opal A. Carter
Deputy Clerk

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

John C. Dorman and	) No. 94-6261,et al
Wilma L. Dorman	) (D.C. No. 93-936-T
debtors	) W. D. OKLA.)
	)
John C. Dorman	) Demand For
Wilma L. Dorman	) Rehearing
Appellants	)
v.	)
Pauline Jones	)
Ann Ell Westbrook	)
Appellees	)

DEMAND FOR REHEARING

COMES NOW, John C. Dorman and Wilma L. Dorman, demanding a rehearing on the dismissal Order and Judgment filed of record on March 31, 1995: and a rehearing on all the other orders which the 10th Circuit has dismissed without due process of appellants' constitutional rights or their constitutional right of oral argument or appellants' demand for relief/redress of their grievances which constitutes an unconstitutional "taking" of their farm land, property and the unconstitutional infringement and "taking" and the "agreement" and the illegal subleasing of the nondebtor nonbankruptcy partnership/constructive trust lease contract and the breach of contract by Jones and Westbrook. And the "Clearly Erroneous" proceedings of the bankruptcy court and the abuse of discretion of the bankruptcy judges and the abuse of discretion and the

unauthorized "taking" and unauthorized power of the alleged court appointed trustee.

Appellants request an extension of time to research and prepare brief.

Respectfully submitted in the honorable, highly exalted Name of the Most High God, The Lord of Host, Jesus of Nazareth, the Christ and only begotten Son of God - the Judge of all the living and the dead.

John C. Dorman
Wilma L. Dorman

Dated 4-7-95

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

In Re: John C. Dorman	)	No. 92-16554-LN
Wilma L. Dorman	)	
Debtors	)	
	)	Chapter 11

ORDER

Before the court are three (3) motions filed by the debtor: (1) Motion for Leave to Appeal, (2) Motion for extension of Time to File Notice of Appeal, and (3) Motion to Stay Effectiveness of Order Pending Appeal. These matters have been referred to the district court for determination pursuant to Fed. R. Bankr. Pro 8003(b).*

Fed R. Bankr. Pro. 8003(b) provides, upon motion for leave to appeal:
(b) Transmittal; determination of motion. The Clerk shall transmit the notice of appeal, the motion for leave to appeal and any answer thereto to the clerk of the district court or the clerk of the bankruptcy appellate panel as soon as all parties have filed answers of the time for filing an answer has expired. The motion and answer shall be submitted without oral argument unless otherwise ordered.

The first motion addressed is that for leave to appeal. There appears in the record to be no dispute among the parties that the order of the bankruptcy judge, sought to be appealed, is a final

one. See Answer to Motion for Leave to Appeal, p. 1. The court agrees. See In re Magic Circle energy Corporation, 889 F 2d 950, 953 (10th Cir. 1989) (The order "must end the litigation and leave nothing to be done except execute the judgment.") This dispute within the bankruptcy case is, by virtue of the order in question, final. The bankruptcy case need not be concluded in order for an appeal of the bankruptcy court's disposition to be lodged. See Eddleman v. U. S. Dept. of Labor, 923 F2d 782, 786-787 n. 7 (10th Cir. 1991) (We are flexible in allowing appeals of discrete disputes within a bankruptcy case. We demand, however, that each discrete dispute come... in a posture which satisfies 'traditional' finality principles.")

With this in mind, the court finds debtors' Motion for Leave to Appeal MOOT, since a Notice of Appeal was filed March 5, 1993. That is to say, leave to appeal the final order is as of right. 28 U.S.C. 158(a). Fed. R. Bankr. Pro. 8001(a). For the same reasons, debtors' Motion for Extension of Time to File Notice of Appeal is also MOOT.

This leaves for resolution debtors' Motion to Stay Effectiveness of Order Pending Appeal.

To prevail on its motion, (movant) must establish four factors: (1) that it is likely to succeed on the merits: (2) that is will suffer irreparable injury

without a stay; and (4) that the issuance of a stay is not contrary to the public interest. See in re Porter, 54 B. R. 81, 82 (Bankr. N. D. Okla. 1985); In re Candor Diamond Corp., 26 B. R. 844, 847 (Bankr. S. D.N.Y. 1983).

In re Crabtree, 113 B.R. 723 (W.D. Okla. 1990).

The debtors here have not met their burden in at lease two respects. First, irreparable injury is not evident, since at the time the surrender order was entered, a trustee had already been appointed indicating strong uncertainty in the debtors' ability to reorganize. Second, granting the stay would result in harm to the trustees and creditors of the estate. A stay would result in the trustees' inability to oversee realization of the value of the lease premises to the benefit of the creditors. This is particularly so, when the debtors are not otherwise "in possession" of the estate. Moreover, such uncertainty in the status of the trustee's lease relationship with the debtors would not appear consistent with Congress's intent expressed in 11 U.S.C. 365 (d) to resolve these matters expeditiously. Having failed in these respects, the court need not address the issue of likelihood of success on the merits.

Accordingly, the Motion for Leave to Appeal and the Motion For Extension of Time to File Notice of Appeal are MOOT.

The Motion to Stay Effectiveness of Order Pending Appeal is DENIED.

IT IS SO ORDERED this 17th day of May, 1993.

Judge Thompson
UNITED STATES JUDGE

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

In RE:		
John C. Dorman	)	No. CIV-93-936-T
Wilma L. Dorman	)	BK-92-16654-LN
	)	Chapter 11
Debtors	)	

ORDER

This action seeks to appeal an order of the United States Bankruptcy Court for th Western District of Oklahoma, entered on February 24, 1993. That order directed the debtors, appellants herein, to immediately surrender to appellees, Pauline Jones an Ann Ell Westbrook, certain non-residential real property which appellees had leased from them (the Surrender Order"). Appellees Jones and Westbrook have filed a motion to dismiss this appeal, contending that it has been rendered moot. The appellants have failed to respond to the motion,* and this motion may be deemed confessed pursuant to local Rule 14. In any event, as is more fully set forth herein, the appal is moot and mus t be dismissed.

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*On October 29, 1993, the appellants filed an application seeking leave of court to extend the time in which to respond. However, that application was denied for failure to comply with the mandatory requirements of Local Rule 14(H).

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At the time this appeal was field, the appellants also filed a motion asking this court to stay enforcement of the Surrender Order during he pendency of this action. The motion to stay was denied by this court, and appellants appealed that decision to the Tenth Circuit Court of Appeals. That appeal was dismissed for lack of jurisdiction because this court's order denying the stay was not a final appealable order under 28 U.S.C 158(d). In the interim, the appellees Jones and Westbrook entered into a settlement agreement with the appellants' court-appointed trustee in bankruptcy. Appellees Jones and Westbrook also entered into an agreement with a third party to lease the subject real property. The settlement agreement between the trustee in bankruptcy and appellees Jones and Westbrook resolved all issues underlying th parties' respective positions concerning the Surrender Order. This settlement agreement was submitted to and approved by th United States Bankruptcy Court for the Western District of Oklahoma. See Order Granting Motion to Compromise Controversy, entered on May 18, 19993, attached to appellants' brief in support of the motion to dismiss as Exhibit F thereto. Appellants did not appeal the order approving the settlement. The time period for doing so has expired. (See Debtors note on page 34)

This court may exercise jurisdiction only over those matters presenting a case of controversy which requires judicial

resolution. See e. G. Wiley V. National Collegiate Athletic Ass'n, 612 F. 2d 473, (10th Cir. 1979), Cert. denied, 446 U. S. 943 (1980). A case is moot "when the issues are no longer live" or "the parties lack a legally cognizable interest in the outcome." Powell V. McCormick, 395 U. S. 486, 496 (1969).

In this case, the bankruptcy court's approval of the settlement and compromise resolves the parties' dispute concerning the Surrender Order. No other issue is before this court. Accordingly, no case or controversy remains for adjudication and the action has been rendered moot. As a result, it must be dismissed.

IT IS SO ORDERED THIS 28th day of June, 1994.

Judge Thompson
United States District Judge

IN THE UNITED BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE:		
JOHN C. DORMAN and	)	No. BK-92-16654-LN
WILMA L. DORMAN	)	Chapter 11
	)	
Debtors	)	

ORDER STRIKING CONFIRMATION HEARING AND DATES FOR BALLOTS AND OBJECTION TO CONFIRMATION OF DEBTORS' PROPOSED PLAN OF REORGANIZATION

The court, upon hearing the statements of counsel for the Debtors, the Trustee and First National Bank of Hooker, orders that the confirmation hearing on the Debtors' proposed Second Amended Plan of Reorganization set for Friday, February 26, 1993, and the dates for return of ballots and objection to confirmation, Wednesday, February 24, 1993, shall be stricken, all to be reset ay further order of this court.

dated: February 24, 1993

Paul B. Lindsey
U. S. Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

IN RE:
JOHN C. DORMAN) NO. BK-92-16654-LN
WILMA L. DORMAN)
Debtors)

ORDER EXTENDING TIME TO ASSUME OR REJECT EXECUTORY CONTRACTS AND/OR UNEXPIRED LEASES

Upon application by the Debtors for an extension of time to assume or reject executory contracts and/or unexpired leases, and there having been no objection filed within the time allowed to the granting of the relief requested in the application, pursuant to Fed. R. Bankr.9006, the time for Debtors to assume or reject executory contracts is extended to February 8, 1993.

Dated: February 8, 1993

Filed: February 8, 1993
Approved by:
Mark Troffoli
Asst. U. S. Trustee

Paul B. Lindsey
U. S. BK Judge

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